

**ORDINANCE NO. 20070301-068**

**AN ORDINANCE GRANTING VARIANCES FOR PROPERTY LOCATED AT 5613 JOE SAYERS AVENUE FROM CERTAIN FLOODPLAIN REGULATIONS PRESCRIBED BY THE CITY CODE FOR CONSTRUCTION OF A DUPLEX IN THE 25 AND 100-YEAR FLOODPLAIN, AND PROVIDING AN EXPIRATION DATE FOR THE VARIANCES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** This ordinance applies to the construction of a 3,336 square foot gross floor area duplex, located at 5613 Joe Sayers Avenue within the 25 and 100-year floodplain subject to Building Permit Application No. BP-05-9457R. Gross floor area is as defined in City Code Chapter 25-2, Subchapter F.

**PART 2.** Council has considered the factors for granting a variance from floodplain regulations prescribed by City Code Section 25-12-3, Building Code Appendix G, Section G105.7 (*Conditions for Issuance*). Council finds that the variance granted by this ordinance is the minimum necessary to afford relief, is based on good and sufficient cause, and failure to grant the variance would result in exceptional hardship. Council further finds that the variance granted in this ordinance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, or create a nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**PART 3.** A variance is granted from:

- (A) the restriction on construction in the 25 and 100-year floodplains prescribed by City Code Section 25-7-92 (*Encroachment On Floodplain Prohibited*);
- (B) the easement requirements in City Code Section 25-7-152 (*Dedication of Easements and Rights-of-Way*) to exclude the house and addition from the requirement to dedicate an easement to the limits of the 100-year floodplain;
- (C) the prohibition against placing an obstruction in a waterway prescribed by City Code Section 25-7-2, (*Obstruction of Waterways Prohibited*).
- (D) the requirement that normal access to the building be by direct connection with an area at least one foot above the design flood elevation prescribed by City Code Section 25-12-3, Building Code Section 1612.4.3 (*Means of Egress*).

**PART 4.** The variance granted in this ordinance is only effective if the applicant meets the following conditions:

- (1) The applicant shall submit a completed Elevation Certificate certifying the elevation of the finished floor of the finished structure is a minimum of one foot above the 100-year floodplain elevation, signed by a Texas registered professional land surveyor, before the City may issue a Certificate of Occupancy for the proposed structure.
- (2) The applicant shall submit a certification by a Texas registered professional engineer or architect certifying that the proposed structure will withstand the flood forces generated by the 100-year flood and that the design and construction is in accord with the latest edition of the American Society of Engineers Manual 24 (Flood Resistant Design and Construction).

**PART 5.** If the project for which this variance is granted does not receive all necessary building permits before March 12, 2008, this variance expires.

**PART 6.** Approval of this variance does not constitute approval of zoning, subdivision, a site plan, a building permit, or any other development permit, and it does not constitute a commitment to any particular land use, intensity of land use, or utility services. Approval of this variance does not constitute a guarantee of flood insurance availability, rates, or requirements.

**PART 7.** This ordinance takes effect on March 12, 2007.

**PASSED AND APPROVED**

_____ March 1, 2007	§ § § _____ Will Wynn Mayor
<b>APPROVED:</b> _____ David Allan Smith City Attorney	<b>ATTEST:</b> _____ Shirley A. Gentry City Clerk